

CRB

GEORGE BARNARD

July 22, 2020

REG# 75406-066

FPC MONTGOMERY

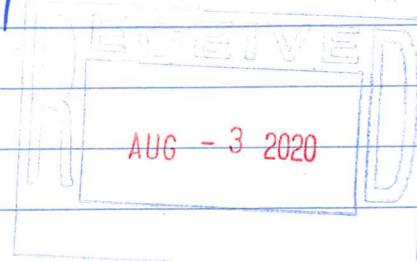
1001 WILLOW STREET,

MONTGOMERY, AL

36112

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AUG - 3 2020



DEAR JUDGE STENGEL,

THE FIRST POSITIVE TEST

OF AN INMATE AT FPC MONTGOMERY HAS JUST BEEN
CONFIRMED. UNFORTUNATELY THE INMATE IS HOUSED
IN MY DORMITORY AND WE HAVE NOW BEEN OFFICIALLY
QUARANTINED.

I AM ASKING YOU TO PLEASE GRANT MY
MOTION SO THAT I CAN BE IN THE SAFETY OF MY
OWN HOME. IT IS BLANTLY OBVIOUS THAT THE BOP
CANNOT CONTAIN THIS DEADLY VIRUS AND WITH NO
"SOCIAL DISTANCING", CORRECTION OFFICERS NOT WEARING
MASKS AND OUTSIDE INMATES FROM AROUND THE COUNTRY
BEING QUARANTINED IN OUR BUILDING HAS MADE THE
SITUATION IN FPC MONTGOMERY UNTENABLE.

AS I HAVE SAID IN MY MOTION FOR COMPASSIONATE
RELEASE THE LACK OF RESOURCES HERE AT FPC MONTGOMERY
TO CORP IS EVIDENT; WE DO NOT HAVE ONE SINGULAR DOCTOR
FOR FIVE HUNDRED INMATES. I PRAY THAT YOU INSTRUCT
JUDGE STENGEL AND RULE POSITIVELY ON MY MOTION; SO THAT
I MAY SERVE THE REST OF MY SENTENCE IN THE SAFETY OF
HOME CONFINEMENT AND THE LOVING CARE OF MY FAMILY.

YOURS TRUTHFULLY,

George Barnard
GEORGE BARNARD

UNITED STATES OF AMERICA

PLAINTIFF,

v.

CASE NO. DPAE2:16CR000273-001

GEORGE BARNARD

DEFENDANT,

MOTION FOR COMPASSIONATE RELEASE |REDUCTION IN SENTENCE PURSUANT TO18 U.S.C. § 3582(c)(1)(A) AND 18 U.S.C.§ 4205(g)

COMES NOW, THE DEFENDANT, GEORGE BARNARD PROSE, RESPECTFULLY REQUESTING THIS HONORABLE COURT MOVES TO GRANT DEFENDANT GEORGE BARNARD IMMEDIATE RELEASE IN RESPONSE TO THE COVID-19 VIRUS. THIS MOTION IS MADE ON THE GROUND THAT UNDER FEDERAL LAW 18 U.S.C. § 3582(c)(1)(A), A SENTENCING COURT, ON MOTION OF THE DIRECTOR OF THE BUREAU OF PRISONS, MAY REDUCE THE TERM OF IMPRISONMENT OF AN INMATE SENTENCED UNDER THE COMPREHENSIVE CRIME CONTROL ACT OF 1984. THE BUREAU OF PRISONS USES 18 U.S.C. § 3582(c)(1)(A) IN PARTICULARLY EXTRAORDINARILY OR COMPELLING CIRCUMSTANCES WHICH COULD NOT REASONABLY HAVE BEEN FORESEEN BY THE COURT AT THE TIME OF SENTENCING FOR INSTANCE THE COVID-19 VIRUS AND SUBSEQUENT WORLDWIDE PANDEMIC.

1. THE RECORDS WILL SHOW THAT DEFENDANT BARNARD IS A "CHRONIC CARE 2" LEVEL INMATE WITH PRE EXISTING DISEASES OF LIVER DISEASE, HYPERTENSION AND A HEMOGLOBIN DISORDER. ALL THREE OF THESE CHRONIC ILLNESSES ARE ON THE CDC (CENTERS FOR DISEASE CONTROL) AS ILLNESSES SUSCEPTIBLE TO COVID AND INCREASED RISKS TO THE COVID-19 VIRUS.

2. DEFENDANT BARNARD HAS EXHAUSTED ALL REMEDIES POSSIBLE WITH HIS WARDEN, WALTER WOOD (NOW RETIRED); AND HIS SURROGATES. DEFENDANT BARNARD HAS SENT NUMEROUS ELECTRONIC EMAILS (SEE EXHIBITS) AND PAPER COP-OUTS ASKING FOR COMPASSIONATE RELEASE AS WELL AS HOME CONFINEMENT. HIS CASE MANAGER MS. SLEDGE HAS BEEN ABSENT FROM WORK THE PAST TWO WEEKS. SHE DID RESPOND HOWEVER WITH NO RESPONSE. DEFENDANT BARNARD THEN PURSUED HIS RIGHTS BY NOTIFYING MS. SLEDGE'S MANAGER, MR. BRIGGS. AFTER NO TANGIBLE RESPONSE THERE DEFENDANT BARNARD CONTACTED THE ASSOCIATE WARDEN, MR. DUNBAR. HIS RESPONSE WAS TO "SEE YOUR CASE MANAGER (MS. SLEDGE); WHO AGAIN HAS BEEN UNAVAILABLE, UNRESPONSING AND EVASIVE. AGAIN I WOULD REMIND THIS HONORABLE COURT THAT DEFENDANT BARNARD HAS BEEN DENIED FOR COMPASSIONATE RELEASE BY THE WARDEN AND WAS SIMPLY LOOKING FOR ANSWERS TO HIS PLIGHT AND AN ENDANGERED INMATE WHO HAS ILLNESSES THAT HAVE BEEN IDENTIFIED AS EXTREMELY RISKY TO AN ADVERSE OUTCOME INCLUDING DEATH IF HE WERE TO CONTRACT THE COVID-19 VIRUS.

3. LET THE RECORD ALSO SHOW THAT DEFENDANT BARNARD HAS AN ADMIRABLE EDUCATIONAL RECORD WHILE INCARCERATED (SEE EXHIBIT) AND NO INCIDENT REPORTS IN THE

PAST 2 YEARS. DEFENDANT BARNARD HAS ALREADY SERVED OVER 50% OF HIS SENTENCE AND HAS BEEN BY ALL MEASURES A "MODEL INMATE." THE DEFENDANT HAS EXHAUSTED ALL KNOWN REMEDIES HERE AT FPC MONTGOMERY AND PRAYS THE HONORABLE COURT NOW INTRANCES AND GRANTS HIM THIS MOTION OF COMPASSIONATE RELEASE AND HOME CONFINEMENT.

4. DEFENDANT BARNARD BEING A MODEL INMATE "IS NOT A DANGER TO THE SAFETY OF ANY OTHER PERSON OR TO THE COMMUNITY," AS PROVIDED IN THE RECENT CASE IN THE TITILO CIRCUIT, EASTERN DISTRICT OF PENNSYLVANIA, UNITED STATES V. LADSON, CRIMINAL ACTION NO. 04-697-1. THE COURT NOTED LADSON, NOT UNLIKE DEFENDANT BARNARD, "HAS SHOWN REHABILITATION AND GOOD CONDUCT WHILE IN CUSTODY." THE COURT LOOKED AT THE 3553(a) FACTORS WHICH REQUIRES THE COURT TO CONSIDER FACTORS SUCH AS THE NATURE AND CIRCUMSTANCES OF THE CHARGED OFFENSE, THE HISTORY AND CHARACTERISTICS OF THE DEFENDANT, AND THE NATURE OF SERIOUSNESS OF THE DANGER TO A PERSON OR THE COMMUNITY AT LARGE POSED BY THE DEFENDANT'S RELEASE. LADSON WAS FOUND GUILTY OF CONSPIRING TO COMMIT HOBB'S ACT ROBBERY AND WAS SENTENCED TO 240 MONTHS OF INCARCERATION. LADSON HAD ALSO RECEIVED DISCIPLINARY INFRACTIONS AS SOON AGO AS 2014 WHEN HE RECEIVED A CITATION FOR A "DISRUPTIVE GROUP DEMONSTRATION." LADSON'S MEDICAL RECORDS INDICATED TYPE 2 DIABETES, GOUT AND HIGH BLOOD PRESSURE. IN THIS CASE THE GOVERNMENT "DID NOT CONTEST MR. LADSON'S TYPE 2 DIABETES COMBINED WITH THE RISK OF CONTRACTING COVID-19 FOR

HIM SATISFIES THE "EXTRAORDINARY AND COMPELLING REASONS" CONGRESS REQUIRES TO REDUCE A FINAL SENTENCE. THE UNITED STATES HOWEVER, EXPRESSLY REJECTS MR. LAJON'S RISK OF ADVERSE OUTCOMES FROM COVID-19 WOULD FAIL UNDER THE CATCHALL IN NOTE 1 (D). "IN ORDER TO CONSTITUTE "EXTRAORDINARY AND COMPELLING REASONS" THE COURT MUST FIND (D) OTHER REASONS. AS DETERMINED BY THE DIRECTOR OF THE BOP, THERE EXISTS IN THE DEFENDANT'S CASE AN EXTRAORDINARY AND COMPELLING REASON OTHER THAN, OR IN COMBINATION WITH, THE REASONS DESCRIBED IN SUBDIVISIONS (A) THROUGH (C). THE COURT CITED THAT OTHER JUDGES RECOGNIZED THE RISK OF THE COMBINATION OF COVID-19 WITH DIABETES AND HYPERTENSION. THE COURT WENT ON TO NOTE THAT "MR. LAJON IS 54 YEARS OLD AND SUFFERS FROM BOTH AILMENTS. HIS HEIGHTENED RISK FOR ADVERSE OUTCOMES OR DEATH IS MORE THAN "EXTRAORDINARY AND COMPELLING;" IT IS LIFE-THREATENING AND URGENT." THE COURT ALSO ADDED THAT LAJON WAS NOT A DANGER TO OTHERS OR THE COMMUNITY DESPITE BEING A CAREER OFFENDER AND NOT HAVING A COMPLETELY CLEAR DISCIPLINARY RECORD. MR. LAJON HAS ALSO ENROLLED IN THE RESIDENTIAL DRUG ABUSE PROGRAM BUT, FOR REASONS OUT OF HIS CONTROL, HAS NOT PROGRESSED BEYOND THE BEGINNING STAGES. MR. LAJON'S WIFE INDICATED THAT HE WOULD RETURN TO LIVE IN THEIR HOMETOWN AND THE OWNER OF THE HAULING COMPANY STATED THAT HE WAS WILLING TO WORK FOR AN HONEST LIVING, AS NOTED BEFORE THE COURT LOOKED AT THE 3553(a) FACTORS AND OBSERVED THAT LAJON HAD SHOWN

REHABILITATION AND GOOD CONDUCT WHILE IN CUSTODY.

HE SHOWS HE IS COMMITTED TO SUPPORTING HIMSELF BY WORKING." THESE FACTORS WEIGHTED IN FAVOR OF A REDUCTION. THE COURT RECOMMENDED LAOSON'S SENTENCE TO TIME SERVED BUT MODIFIED HIS SUPERVISED RELEASE TO ENSURE HIS CONTINUED PROGRESS THROUGH A STABLE, EMPLOYMENT AND COMMUNITY OUTREACH. DEFENDANT BARNARD PRAYS THE COURT WILL FIND IN THE SAME MANNER.

5. THE REHABILITATING NATURE OF DEFENDANT BARNARD'S CONSTANT AND CONSISTENT PROGRAMMING APPLIED IN JULY OF THIS YEAR WHEN HE COMPLETES THE RESIDENTIAL DRUG ABUSE PROGRAM, AUGUST 19th 2020. A DRUG AND ALCOHOL PROGRAM THAT ENCOMPASSED FIVE HUNDRED HOURS AND ONE YEAR OFF HIS ORIGINAL SENTENCE - THE 3621-E. ALONG WITH HIS PARENTING SKILLS CLASS, CAREER PLANNING AND STRESS MANAGEMENT COURSES DEFENDANT BARNARD HAS UNIQUELY POSITIONED HIMSELF FOR A SMOOTH TRANSITION BACK INTO HIS COMMUNITY OF SOUTHAMPTON, PENNSYLVANIA.

6. UNDER THE FIRST STEP ACT OF 2018, HOME DETENTION IS NOW CLEARLY QUALIFYING AS "IN CUSTODY" STATUS; THIS HONORABLE COURT MAY WAIVE ANY ADMINISTRATIVE EXHAUSTION REQUIREMENT WHERE EXHAUSTION WOULD BE FUTILE; WHERE THE ADMINISTRATIVE PROCESS WOULD BE INCAPABLE OF GRANTING ADEQUATE RELIEF. OR WHERE PURSUING AGENCY REVIEW WOULD SUBJECT THE PERSON SEEKING RELIEF TO UNDUE PREJUDICE. FURTHER UNDUE DELAY IF IN FACT RESULTS IN CATASTROPHIC HEALTH CONSEQUENCES GIVEN THE DEVASTATING EFFECTS OF COVID-19

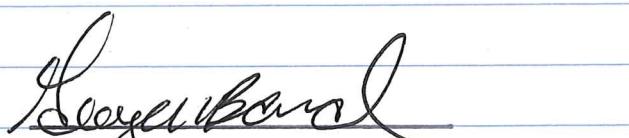
To someone such as defendant BARNARD AND HIS PREVIOUSLY DISCUSSED HEALTH CONDITIONS. THIS CAN JUSTIFY WAIVING AN ADMINISTRATIVE EXHAUSTION REQUIREMENT GIVEN THE SENSE OF URGENCY IN THIS CASE. IN THE CASE WILSON V. WILLIAMS, CASE NO. 20-3447, 2020 U.S. APP. LEXIS 18087 (6TH CIR. JUNE 9, 2020) THE SIXTH CIRCUIT SWEEP ASIDE BOP AND GOVERNMENT ARGUMENTS THAT THE INMATES HAD TO "EXHAUST" ADMINISTRATIVE REMEDIES UNDER THE PRISON LITIGATION REFORM ACT. THIS WOULD HAVE REQUIRED EACH INMATE PLAINTIFF TO FOLLOW THE BP-9, -10 AND -11 PROCESS, A PECULIAR PROCEDURE RULED THE SIXTH CIRCUIT SAYING "THAT WOULD HAVE WASTED SIX MONTHS." MOST IMPORTANT, THE COURT HELD THAT "PETITIONERS HAVE PROVIDED EVIDENCE THAT THEY ARE 'INCARCERATED UNDER CONDITIONS POSING A SUBSTANTIAL RISK OF SERIOUS HARM. THE COVID-19 VIRUS CREATES A SUBSTANTIAL RISK OF SERIOUS HARM LEADING TO PNEUMONIA, RESPIRATORY FAILURE, OR DEATH. THE BOP ACKNOWLEDGES THAT THE HEALTH RISKS ARE SIGNIFICANT. THE TRANSMISSIBILITY OF THE COVID-19 VIRUS IN CONJUNCTION WITH DORMITORY-STYLE HOUSING WHICH PLACES INMATES WITHIN FEET OF EACH OTHER AND THE MEDICALLY-VULNERABLE SUBCLASSES' HEALTH RISKS, PRESENTS A SUBSTANTIAL RISK THAT PETITIONERS WILL BE INFECTED WITH COVID-19 AND HAVE SERIOUS HEALTH ISSUES AS A RESULT, INCLUDING, AND UP TO DEATH." THIS IS A FOIL TO THE GOVERNMENT'S OFTEN-MADE CLAIM IN OPPOSING COMPASSIONATE RELEASE MOTIONS THAT THE BOP IS ADEQUATELY MEETING INMATE

I, GEORGE BARNARD, HEREBY CERTIFY THAT A TRUE AND EXACT COPY OF THE FOREGOING MOTION FOR REMOTE HOME CONFINEMENT PURSUANT TO 18 U.S.C. § 3582(c)(1)(A) HAS BEEN MAILED, FIRST CLASS, TO:

UNITED STATES ATTORNEY'S OFFICE
MICHAEL S. LOWE
615 CHESTNUT STREET, SUITE 1250
PHILADELPHIA, PA 19106

ON THIS 22nd DAY OF JULY, 2020

I ATTEST TO THIS:-


GEORGE BARNARD, PRO SE